

HOUSE BILL 1896

By Maddox

AN ACT to amend Tennessee Code Annotated, Title 39, Title 53, Title 63 and Title 68, relative to intractable pain.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 6, is amended by adding Sections 2 through 9, inclusive as a new part to be appropriately designated.

SECTION 2. This part may be known and cited as the "Intractable Pain Treatment Act".

SECTION 3. For the purposes of this part:

(1) "Board" means the board of medical examiners.

(2) "Physician" means a physician licensee of the board of medical examiners.

(3) "Intractable pain" means a pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts.

SECTION 4. Notwithstanding any other provision of law, a physician may prescribe or administer dangerous drugs or controlled substances to a person in the course of the physician's treatment of a person for intractable pain involving a serious illness to provide adequate pain treatment.

SECTION 5. No hospital or health care facility may forbid or restrict the use of dangerous drugs or controlled substances when prescribed or administered by a physician having staff privileges at that hospital or health care facility for a person diagnosed and treated by a physician for intractable pain.

SECTION 6. No physician may be subject to disciplinary action by the board for prescribing or administering dangerous drugs or controlled substances in the course of treatment of a person for intractable pain.

SECTION 7.

(a) Except as provided by subsection (c) of this section, the provisions of this part shall not apply to those persons being treated by the physician for chemical dependency because of their use of dangerous drugs or controlled substances.

(b) The provisions of this part provide no authority to a physician to prescribe or administer dangerous drugs or controlled substances to a person for other than legitimate medical purposes as defined by the board and who the physician knows or should know to be using drugs for nontherapeutic purposes.

(c) The provisions of this part authorize a physician to treat a patient who develops an acute or chronic painful medical condition with a dangerous drug or a controlled substance to relieve the patient's pain using appropriate doses, for an appropriate length of time, and for as long as the pain persists. A patient under this subsection includes a person who:

- (1) is a current drug abuser;
- (2) is not currently abusing drugs but has a history of drug abuse; or
- (3) lives in an environment that poses a risk for drug misuse or diversion of the drug to illegitimate use.

(d) A physician who treats a patient under subsection (c) of this section shall monitor the patient to ensure the prescribed dangerous drug or controlled substance is

used only for the treatment of the patient's painful medical condition. To ensure that the prescribed dangerous drug or controlled substance is not being diverted to another use and the appropriateness of the treatment of the patient's targeted symptoms, the physician shall:

(1) specifically document:

(A) the understanding between the physician and patient about the patient's prescribed treatment;

(B) the name of the drug prescribed;

(C) the dosage and method of taking the prescribed drug;

(D) the number of dose units prescribed; and

(E) the frequency of prescribing and dispensing the drug; and

(2) consult with a psychologist, psychiatrist, expert in the treatment of addictions, or other health care professional, as appropriate.

SECTION 8. Nothing in this part shall deny the right of the board of medical examiners to cancel, revoke, or suspend the license of any physician who:

(1) prescribes, administers, or dispenses a drug or treatment for other than legitimate medical purposes as defined by the board and that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed;

(2) fails to keep complete and accurate records of purchases and disposals of drugs as provided by law, or of controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et seq. (Public Law 91-513), including records of:

(A) the date of purchase;

(B) the sale or disposal of the drugs by the physician;

(C) the name and address of the person receiving the drugs; and

(D) the reason for the disposal of or the dispensing of the drugs to the

person;

(3) writes false or fictitious prescriptions for dangerous drugs, for controlled substances scheduled in the Tennessee Drug Act, Tennessee Code Annotated, Title 39, Chapter 17, Part 4, or for controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et seq. (Public Law 91-513); or

(4) prescribes, administers, or dispenses in a manner not consistent with public health and welfare dangerous drugs under Tennessee Code Annotated, Title 39, Chapter 17, Part 4, controlled substances scheduled in the Tennessee Drug Act, Tennessee Code Annotated, Title 39, Chapter 17, Part 4, or controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C.A. Section 801 et seq. (Public Law 91- 513).

SECTION 9. This Act is not intended nor shall it be interpreted to allow for the prescription of any illegal substance to any patient or person at any time in violation of federal law.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it.